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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,952	02/18/2004	David K. Huehner	1796-CP-CONT	2315
27542	7590	06/23/2004	EXAMINER	
SAND & SEBOLT AEGIS TOWER, SUITE 1100 4940 MUNSON STREET, NW CANTON, OH 44718-3615			BARRETT, SUZANNE LALE DINO	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/780,952

Applicant(s)

HUEHNER, DAVID K.

Examiner

Suzanne Dino Barrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/18/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claim 37 is objected to because of the following informalities: in line 11, there is no antecedent basis for "the first locking element", it should be changed to -the first locking member--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,4,5,12-33,36 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Anderson et al 4,685,234. Anderson et al teach a theft deterrent device comprising first and second housing halves 14,20 having a first locking member 26 with a slot to receive a second locking member 22, the first locking member 26 linearly slidable within rib portions of the housing in a direction substantially perpendicular to an axis of a second locking member, the second locking member comprising a tack 22 having a stepped post portion (Fig.1) engageable by the first locking members until released by a magnetic key means which slides the first locking members away from the post.

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4. Claims 1,4,19-21,28,46-48 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Damvig 4,745,664. Damvig teaches a theft deterrent tag housing comprising first and second halves 3,4 and having a first locking member 8 which engages a second locking member tack 1 having a stepped post portion 2 and wherein the locking member is linearly slidable away from the post when released by a key prong/tool (Fig.3-col.3).

5. Claims 1,4,6,7,9,19-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hogan et al 5,140,836. Hogan et al teach an antitheft device comprising an EAS element within a housing having linearly slidable first locking members 30,32 with opposing teeth 34,36 to engage a second locking member 20 having steeped portions 18.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6-11,34,35,37-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al '234 in view of Hogan et al '836. Hogan et al teach that it is well known to provide an EAS element within a locking device housing. It would have been obvious to one of ordinary skill in the art to provide the housing of Anderson

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et al with an EAS element as taught by Hogan et al to enhance the security of the locking device.

8. Claims 6-11,37,38 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Damvig '664 in view of Hogan et al '836. Hogan et al teach that it is well known to provide an EAS element within a locking device housing. It would have been obvious to one of ordinary skill in the art to provide the housing of Damvig with an EAS element as taught by Hogan et al to enhance the security of the locking device.

9. Claims 2,3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Damvig '664 in view of Mazzucchelli 5,791,079. Mazzucchelli teaches a seal means 9A for a tag element which is breakable to release the first and second locking members 5,8. It would have been obvious to one of ordinary skill in the art to modify the device of Damvig by providing a seal at the opening which receives the key prong/tool as taught by Mazzucchelli to further enhance the security of the device by preventing release except by the authorized key/tool configuration.


### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the sliding first locking members (balls) of Gartshore 4,903,383, Lipschitz 4,339,853; and the locking members of Nguyen 5426,419 and Sayegh et al 2003/0222780, especially.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne Dino Barrett whose telephone number is 703-308-0825. The examiner can normally be reached on M-Th 8:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Suzanne Dino Barrett  
Primary Examiner  
Art Unit 3676

sdb